

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 178425
ORIGIN L-03

INFO OCT-01 EA-07 ISO-00 JUSE-00 H-01 CIAE-00 INR-07
NSAE-00 PM-05 SCA-01 /025 R

DRAFTED BY L/EA:PMNORTON:MAD

APPROVED BY L/EA:EGBERVILLE

EA/PHL - MR. FLECK

AF/JAG - W.H. CARROLL

NAVY/JAG - D. PFEIFFER

JUSTICE - MR. RISTAU

DOD/ISA - CMDR. JULIAN

-----016642 301431Z /40

R 292015Z JUL 77

FM SECSTATE WASHDC

TO AMEMBASSY MANILA

INFO DEPT OF JUSTICE

CSAF(JACK)

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL

13AF/JA

3CSG/JAI

NAVY/JAG

AF/JAG

:DOD/ISA

LIMITED OFFICIAL USE STATE 178425

E.O. 11652: N/A

TAGS: MILI, RP

SUBJECT:NUGUID VS GAINES, ET AL (CIVIL SUIT)

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 178425

REF: MANILA 11190

1. INSTRUCTIONS ARE BEING SENT THROUGH MILITARY CHANNELS
TO RETAIN PRIVATE COUNSEL FOR THE INDIVIDUALS NAMED IN
THIS CASE AND TO PLEAD OFFICIAL ACTS IMMUNITY ON THEIR
BEHALF. EMBASSY SHOULD RECEIVE INFO COPY.

2. ALTHOUGH IT MAY BE APPROPRIATE AT SOME POINT TO ASSERT SOVEREIGN IMMUNITY FOR USG ITSELF IN THIS CASE, WE BELIEVE IT WOULD BE MORE POLITIC TO TRY TO AVOID CONFRONTING THE ISSUE HEAD-ON AS LONG AS POSSIBLE. WE UNDERSTAND THAT PLAINTIFF HAS FILED A CLAIM WITH AF AUTHORITIES WHICH, IF ACCEPTED, MIGHT OBTAIN THE NEED FOR COURT ACTION. THIS MAY PROVIDE US WITH OPPORTUNITY TO CITE THE CLAIM AS, IN EFFECT, AN ADMINISTRATIVE REMEDY WHICH SHOULD BE EXHAUSTED BEFORE THE SOVEREIGN IMMUNITY QUESTION IS ADDRESSED.

3. WE WOULD ACCORDINGLY PROPOSE THAT EMBASSY RESPOND TO DFA NOTE AS FOLLOWS:

FIRST PARA OF EMBASSY DRAFT, PARA 5 REFTEL
QUOTE - IN THIS REGARD THE EMBASSY HAS THE HONOR TO

INFORM THE DFA THAT PLAINTIFF IN THE CASE IN QUESTION HAS ALSO FILED A CLAIM FOR DAMAGES DIRECTLY WITH U.S. MILITARY AUTHORITIES. THE ADMINISTRATIVE PROCEDURES BY WHICH CLAIMS OF THIS NATURE ARE HANDLED HAVE IN THE PAST FREQUENTLY PROVIDED CLAIMANTS WITH PROMPT AND SATISFACTORY RELIEF. IT IS THE EMBASSY'S UNDERSTANDING THAT U.S. MILITARY AUTHORITIES WILL ADDRESS PLAINTIFF'S CLAIM IN THE PRESENT CASE AS EXPEDITIOUSLY AS POSSIBLE. THE DISPOSITION OF THIS CLAIM MAY SIGNIFICANTLY AFFECT OR OBTAIN ENTIRELY FORMAL LEGAL PROCEEDINGS. UNDER THESE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 178425

CIRCUMSTANCES, THE EMBASSY BELIEVES IT WOULD BE PREMATURE AT THIS TIME TO ADDRESS THE QUESTION OF THE USG'S IMMUNITY IN THE PRESENT CASE. UNQUOTE.

4. SUMMONS AND MOTION TO OBTAIN CONSENT TO BE SUED SHOULD BE RETURNED TO DFA ALONG WITH NOTE.

5. DOD AND JUSTICE CONCUR. VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY PERSONNEL, LITIGATION
Control Number: n/a
Copy: SINGLE
Sent Date: 29-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE178425
Document Source: CORE
Document Unique ID: 00
Drafter: PMNORTON:MAD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770274-0230
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t1977073/aaaaacix.tel
Line Count: 102
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 31cc5b65-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 MANILA 11190
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 16-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1779451
Secure: OPEN
Status: NATIVE
Subject: NUGUID VS GAINES, ET AL (CIVIL SUIT) LIMITED OFFICIAL USE LIMITED OFFICIAL USE
TAGS: MILI, CGEN, RP, US, (GAINES, JOSEPH)
To: MANILA
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/31cc5b65-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009